

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF DONALD W.) APPEAL NO. 07-A-2114
JAKOVAC from the decision of the Board of) FINAL DECISION
Equalization of Lemhi County for tax year 2007.) AND ORDER

COMMERCIAL PROPERTY APPEAL

THIS MATTER came on for hearing November 7, 2007 in Salmon, Idaho before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Appellant Donald W. Jakovac appeared at hearing. Assessor R. J. Smith, County Attorney P.B. Withers and County Appraiser Ray Muscarella appeared for Respondent Lemhi County. This appeal is taken from a decision of the Lemhi County Board of Equalization denying the protest of valuation for taxing purposes of property described as Parcel No. RP A0001015005A A.

The issue on appeal is the market value of a commercial property.

The decision of the Lemhi County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$72,358, and the improvements' valuation is \$424,512, totaling \$496,870. In the notice of appeal, Appellant requests the total value be reduced to \$395,274.

The subject property is a commercial building used for office and retail purposes. The lot size is 11,132 square feet. The 2-story improvement has 8,576 square feet according to county records. Appellant noted there was 6,890 square feet of leasable area. The original construction on the ground level was in the early 1970's. The second floor was added in the 1990's.

Appellant reports the property was listed for sale for several years, and during all of 2006,

at \$450,000 to \$500,000 with no offers.¹ Information on another listing pertained to a commercial corner site on the market since July 2005. The asking price for the roughly 14,400 square feet was \$85,000. This works out to about \$5.90 per square foot. Subject's 11,132 square feet was assessed at \$6.50.

Taxpayer argued there were certain errors in the value calculations of Respondent discussed further below. One particular issue was the lack of good comparables that were 2-story properties. It was argued that "real" market data such as subject's extensive, current listing -- with no offers -- should be considered foremost. Such consideration was contended to suggest a ceiling on subject's market value of between \$400,000 and \$425,000.

The Assessor presented evidence toward demonstrating subject was uniformly assessed in comparison to other similar commercial property. Evidence of value was submitted from three appraisal approaches to value. Most weight (50%) was placed on the cost approach where it relied on more factual information.

The cost approach used Marshall Swift data. Overall depreciation was estimated at 10%. The land value relied on a number of nearby land sales, however only one was recent. The older sales had significant time-adjustments for date of sale. Appellant noted subject was no longer similar to new construction or as desirable. It was noted further that other commercial property similar in age to subject had received a larger depreciation allowance. The County estimated subject's market value by the cost approach at \$496,870.

The income approach estimated market rent and expenses, and allowed a 5% vacancy and collection loss factor. The capitalization rate was 10%. Appellant reported subject's actual

¹ The Assessor reported the listing price was \$475,000. A sales flier from March 2007 reflected the price had been increased to \$550,000.

occupancy was less than that forecasted. Respondent's income approach indicated a final value of \$510,000.

The sales comparison approach to value considered four (4) improved sales. The time-adjusted sale prices, after further adjustments for differences with subject, indicated a value of \$46 to \$57 per square foot of gross building area. Sale No. 1, a December 2006 sale, was considered the most comparable at \$59.27 per square foot. The building size on Sale No. 1 was 4,640 square feet and the site size was 4,756 square feet. Subject's assessed value works out to \$57.94 on a square foot basis. All of the sales were smaller and none were 2-story properties. The approach indicated a value of about \$500,000. The Board notes the indicated assessed value for each comparable sale was above the corresponding sale price.

The Assessor testified the typical marketing time for commercial property was running about three years although a number of properties had sold in six (6) months time. The commercial property market prior to 2007 was described by both parties as relatively active.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The subject property is to be appraised for taxation purposes at its market value as of January 1, 2007. Idaho Code §§ 63-205(1), 63-201(10).

Both parties presented evidence of subject's market value on this date. The Assessor endeavored to estimate value by all three (3) approaches to market value. There was sufficient data to process each indicator, however some of the data relied on was considered by the Board

to be rather dated or dissimilar in important respects. The assessment was supported by the evidence but not well supported.

Appellant argues the assessment is erroneous (too high) as evidenced by a lengthy listing of subject at prices less than the assessed value. It was noted there had been no offers at the listed prices. The listings appeared to have all been through realtors connected with a Multiple Listing Service.

Subject is relatively unique in its 2-story configuration and in other respects. Given the limitations of good, recent comparable sales, the Board agrees with Appellant that prime consideration should be given subject's lengthy and substantial listing history (listing price). The Board finds it more likely than not that the selling price for subject would be less than its asking price. The listing price tends to set the upper limit on value. On the 2007 assessment date, subject was reportedly listed for \$450,000. The Board adjudges subject's market value to be \$425,000. Therefore the decision of the Lemhi County Board of Equalization will be modified.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the value decision of the Lemhi County Board of Equalization concerning the subject parcel be, and the same hereby is, modified to reflect a decrease to \$425,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 30, 2008